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Standing Committee on Resources Development

Report on the 1985
Annual Report of the
Workers' Compensation Board

3rd Session 33rd Parliament
36 Elizabeth II

STANDING COMMITTEE ON
RESOURCES DEVELOPMENT



COMITÉ PERMANENT DU
DÉVELOPPEMENT DES RESSOURCES

LEGISLATIVE ASSEMBLY
ASSEMBLÉE LÉGISLATIVE

The Honourable Hugh Edighoffer, M.P.P.,
Speaker of the Legislative Assembly.

Sir,

Your Standing Committee on Resources Development has the honour to present its Report on the 1985 Annual Report of the Workers' Compensation Board and commends it to the House.

Floyd Laughren, M.P.P.
Chairman

Queen's Park
June, 1987



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MERIKE MADISSO
Research Officer

MEMBERSHIP OF THE STANDING COMMITTEE ON
RESOURCES DEVELOPMENT

DURING HEARINGS INTO THE 1985 ANNUAL REPORT
OF THE WORKERS' COMPENSATION BOARD *

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Research Officer

* Conducted during the Recess between the 2nd and 3rd Sessions,
33rd Parliament

1. Substituted for by Mickey Hennessy
2. Substituted for by James Taylor
3. Substituted for by Ray Haggerty
4. Substituted for by Phil Gillies
5. Substituted for by Ross McClellan

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
RECOMMENDATIONS	1
Royal Commission	1
Claims Adjudication	2
Permanent Pensions	2
Supplements	3
Doctors	3
Rehabilitation	4
Employer Assessments and Penalties	5
Occupational Disease	5
Psychological Disability Claims	6
The Board's Annual Report	6
Miscellaneous Recommendations	6
APPENDIX A – List of Witnesses	7

INTRODUCTION

Pursuant to s. 85 of the Workers' Compensation Act, the Board filed its 1985 annual report with the Minister of Labour, who, in turn, submitted it to the Legislative Assembly. By Order of the House dated February 12, 1987 the report was then referred to the Standing Committee on Resources Development.

The Committee held public hearings in Toronto from March 9 to March 13, 1987. Because of time constraints, it heard only from umbrella groups, a list of which appears as an appendix to this report. The Committee met in camera to consider its report on May 25 and 27 and on June 1, 1987. On June 3 it met in public to consider a motion recommending the establishment of a Royal Commission to review the workers' compensation system in Ontario, this review to include the development of a comprehensive universal accident and illness insurance plan. The motion directed the Chairman of the Committee to correspond with the Premier of the Province to advise him of the contents of the motion.

The first recommendation of the Committee's report reflects this motion, which was passed by a majority of the members of the Committee. The recommendations which follow it met with unanimous approval.

RECOMMENDATIONS

Royal Commission

A Royal Commission should be established to undertake a comprehensive and exhaustive review of the workers' compensation system in Ontario, with the objective of making recommendations to the government for a new Workers' Compensation Act designed to replace the Workers' Compensation Act of 1915, and the Commission's terms of reference should include the development for Ontario of a comprehensive universal accident and illness insurance plan.

Claims Adjudication

1. Injured workers should be given sufficient written notice of any change in entitlement status, with reasons.
2. A worker's expression of frustration with employment possibilities should not be interpreted by the Board to constitute a claim for total disability (a categorization which can then result in a reduction to temporary disability benefits).
3. Direct contact between the worker (and his or her representative) and claims/pensions adjudicators and rehabilitation counselors should be a worker's right.
4. The Board adjudicator should inform the injured worker of all types of WCB support available.
5. When making decisions regarding initial entitlement, the Board should pay closer attention to the nature of soft-tissue injuries, particularly the length of time that may pass before a permanent disability develops.

Permanent Pensions

1. The Board should allow every worker with a permanent disability a reassessment on request.
2. Regarding psychiatric disability, the Board should grant psychiatric awards in occupational disease cases along the same principles as psychiatric awards in other areas.

Supplements

1. The criteria by which supplements are granted should be consistently communicated to workers.
2. Supplements should not cease automatically upon the closing of a worker's rehabilitation file; the pensions adjudicator should make an independent decision regarding entitlement to supplements.
3. Regarding older worker supplements:
 - a) The Board should abandon its rule that a worker must be 57 years old before he or she can qualify.
 - b) To ensure that this supplement is not used by the Board to replace full supplements, this supplement should not be awarded until rehabilitation is attempted or the worker wishes otherwise.
 - c) When granted, this supplement should be guaranteed until age 65.

Doctors

1. The role of Board doctors must be clearly limited to providing medical opinion. Policy and practice need to be developed so as to clearly exclude any reference to adjudication by WCB doctors.
2. Treating doctors should automatically be provided with a full report of any examination conducted on behalf of the WCB.
3. There should be a decentralization of examination facilities to reduce the necessity of travel by injured workers.
4. Forms requesting outside medical information should be improved.

5. Enough time must be provided to WCB doctors to do proper assessments of injured workers and to conduct any research or consultation which would be helpful.

Rehabilitation

1. Employment proposed by the Board should have the following characteristics:
 - a) It should compare favorably with the pre-accident job in terms of status and remuneration.
 - b) It should not place the injured worker at risk for further injury.
 - c) It should offer challenge and opportunity for advancement.
 - d) It should not require re-location by the worker.
2. There should be greater recognition on the part of the Board that part-time work is most suitable for some injured workers.
3. Rehabilitation counselors should not be required to act as benefit control officers. The worker should know that the relationship is confidential and that the only task of the counselor is the rehabilitation of the worker.
4. The Board should, in particular, address the special rehabilitation needs of immigrant and Northern Ontario injured workers.
5. Downsview Rehabilitation Centre should be used for serious injuries (especially head injuries and major amputations); treatment of less severe injuries should be decentralized to existing regional centres.

6. In order to eliminate delay and to reduce strain on the Centre, the Board and the Ministry of Health should ensure that adequate treatment facilities are provided throughout the province.
7. Chiropractic services should immediately be established at the Centre.

Employer Assessments and Penalties

1. The Board should consider expanding the number of rate groups to better match employers who are competitive in the market place.
2. The Board's current experience rating plan (called NEER – New Experimental Experience Rating Plan) needs more administrative support from the Board. For example, employers in NEER should receive regular performance reports.
3. The Board should actively pursue those employers who are suspected of understating or not reporting assessable payroll.

Occupational Disease

1. Published policy on mesothelioma claims should be updated to reflect the Board's actual policy and current medical learning.
2. The Board should promote more lip-reading classes to assist those workers whose hearing has been impaired.
3. Occupational disease claims should be treated in a manner similar to trauma claims:
 - a) Benefit of doubt should apply.
 - b) Claims should be allowed on an aggravation basis when a pre-existing condition (e.g., caused by smoking) was not disabling prior to exposure to the cause of the occupational disease.

- c) A workplace substance which is a significant contributing cause should lead to compensability.
4. The problem of white finger disease should be addressed through either a policy change or a reference to the Industrial Disease Standards Panel.

Psychological Disability Claims

1. Psychological disability should be compensated in the same way as organic conditions. Active medical and vocational therapy should be provided to treat and cure the condition.
2. To assist adjudication staff with determining appropriate compensation, independent psychiatric consultants should be asked specific questions: e.g., whether the condition is disabling and to what extent; whether it precludes or inhibits the worker from working, etc.
3. When an independent doctor's information is unclear, clarification should be sought from that doctor (as opposed to allowing a Board doctor to make an interpretation that leads to a different conclusion).

The Board's Annual Report

1. The Board should collect and publish statistics on the period of time between date of initial application for pension and date of first payment.

Miscellaneous Recommendations

1. Injured workers should have a representative on the board of directors of the Board.
2. Stricter conflict of interest guidelines should be established and enforced so as to preclude another situation such as arose with Dr. Robert Mitchell of the Board.

APPENDIX "A"**LIST OF WITNESSES**

Ministry of Labour

Mr. Peter Sadlier-Brown
Assistant Deputy Minister
Labour Policy and Programs

Workers' Compensation Board

Dr. Robert Elgie
Chairman

Dr. Alan Wolfson
Vice-Chairman and President

Mr. Irwin Glasberg
Secretary

Mr. Andy Emmink
Executive Assistant to the Chairman,
Policy and Program Analysis

Dr. Elizabeth Kaegi
Vice-President, Policy and
Specialized Services

Mr. John Neal
Board Actuary
Actuarial Services Division

Mr. Arthur Darnbrough
Executive Director
Vocational Rehabilitation Division

Office of the Employer Advisor

Mr. Jason Mandlowitz
Director

Office of the Worker Advisor

Mr. Odoardo DiSanto
Director

Ms. Rosemary Tait
Manager, Toronto Office

Workers' Compensation Appeals Tribunal

Prof. Ron Ellis
Chairman

Mr. Jim Thomas
Vice-Chairman

Employers' Counsel on Workers' Compensation

Ms. Judith Andrew
Canadian Federation of
Independent Business

Mr. John Blogg
Director of Occupational Health
Extendicare

Mr. David Frame
Executive Vice-President
Council of Ontario Construction
Associations

Mr. Les Liversidge
Liversidge and Associates
Management Consultants

Ontario Mining Association

Mr. Patrick Reid
Executive Director

Mr. Larry Watkinson
Vice-Chairman
Workers' Compensation Committee

Ontario Federation of Labour

Mr. Sean O'Flynn
Secretary-Treasurer

Ms. Linda Jolley

Ms. Lorna Moses

Mr. Gary Cwitco

Toronto Case Workers' Group

Ms. Lorraine Smith

Mr. Joe Quatrole

Mr. Eddy Cauchi

Mr. Orlando Buonastella

Mr. John McKinnon

Ontario Legal Clinics Workers' Compensation Network

Mr. Terence Hunter

Association of Southwest Legal Clinics

Mr. David Craig
Halton Hills Community Legal Clinic

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